



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17032 of 2018

***State of Odisha and
another*** ***Petitioners***

Mr. Jateswar Nayak, Advocate

-versus-

***Aswini Kumar Sahoo and
another*** ***Opp. Parties***

*Mr. Prafulla Kumar Rath,
Senior Advocate for opposite
party no.1*

CORAM:

THE HON'BLE MR. JUSTICE S.K. SAHOO

THE HON'BLE MR. JUSTICE S.S. MISHRA

ORDER

25.07.2025

Order No.

21.

This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard Mr. Jateswar Nayak, learned Additional Government Advocate appearing for the State of Odisha and Mr. Prafulla Kumar Rath, learned Senior Advocate appearing for the opposite party no.1.

This writ petition has been filed by the State of Odisha challenging the order dated 13.09.2017 passed by the Odisha Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar (hereafter, 'the Tribunal') in O.A. No.825 of 2017/O.A. No.752(C) of 1998 under Annexure-1.



It appears that the opposite party no.1 Aswini Kumar Sahoo approached the learned Tribunal with a prayer for a direction to the petitioners to treat him as an employee of the Nalini Devi Women's College of Education, Bhubaneswar (hereafter, 'the College') as on 1st April, 1990 as per the provision under section 7 of the Orissa Act, 24 of 1991 and to take him back in service and extend all service and financial benefits.

It is the case of the opposite party no.1 that he was appointed as Typist in the College as per order dated 29.12.1988 on 89 days basis and thereafter, he was appointed on permanent basis, on a consolidated salary of Rs.800/- per month as per the order dated 01.05.1989. There was some mismanagement and disturbance in the College and ultimately the College was taken over by the Government by an ordinance dated 27.06.1991 and the ordinance was converted to an Act, namely Nalini Devi Women's College of Education (Taking over Management) Orissa Act 24 of 1991 and as per the provision under section 7 of the said Act, the Teaching and Non-teaching employees in the employment of the College as on 1st April, 1990 shall be deemed to have been absorbed in Government service. To implement the provision, the audit of the account of the college was conducted. The employees, whose names have been placed in the



audit report and in the notice dated 11.07.1991 of the Administrator, were treated as Government servant. However, since the name of opposite party no.1 and some other employees did not find place in the audit report, they were not being treated as employees of the College. The opposite party no.1 approached the Tribunal in O.A. No.1699 of 1991 along with other similarly situated persons and all the original applications were heard together and disposed of by a common order dated 20.02.1997 and the learned Tribunal directed the petitioners to constitute a high level committee to enquire into the matter and to take follow up action on the basis of the report of the said Committee. Accordingly, a Committee was constituted and during enquiry, the opposite party no.1 appeared before the Committee and submitted documents and other materials to show that he was an employee of the College as on 01.04.1990. However, the Committee submitted its report on 07.11.1997 to the effect that there was no credible material to show that the opposite party no.1 was in the employment of the College as on 01.04.1990. On receipt of the report of the Committee, the Government rejected the claim of the opposite party no.1. Being aggrieved by the action of the Government in rejecting his claim, the opposite party no.1 again approached the Tribunal for a



direction to treat him as an employee of the College as on 01.04.1990 in O.A. No.825 of 2017/O.A. No.752(C) of 1998.

After issuance of notice in the matter, the petitioners filed their counter affidavits and stand was taken that the opposite party no.1 was not an employee of the College, which was taken over by the Government on 01.04.1990, rather he was appointed as a Typist on adhoc basis for a period of 89 days and subsequently, on permanent basis by the Secretary and no other document was available that he was an employee of the College as on the said date.

Learned Tribunal considering that the cases of Bimbadhar Senapati, Ajodhya Narayan Mohanty, Pabani Behera and Badrinarayan Patra, who stand in the similar footing like the opposite party no.1 has been pleased to hold as follows:-

"5) Considering the rival claim and the submission, the only question that requires determination, is whether the applicant was in the employment of the college, as on 01.04.1990.

Without giving a detail account of the case, suffice it to say that because of mismanagement and disturbance in the college, Government issued Ordinance on



27.6.1991, taking over the management of the college; and the said Ordinance was subsequently converted to an Act namely Nalini Devi Women's College of Education (Taking Over Management Act 1991 (Orissa Act 24 of 1991). As per section 7 of the said Act, all the teaching and non-teaching employees in the employment of the college as on 01.04.1990 shall be deemed to have been absorbed in government service as employees of the college in their respective posts, with effect from the date of its transfer. The teaching and non-teaching staff whose names found place in the audit report and notice dtd.17.11.1991 of the Administrator alone, were treated as government servants. The name of the applicant and some others did not find place in the audit report as well as in the notice of the Administrator. As indicated above, being aggrieved, the applicant approached the Tribunal in O.A. No.1699/1991, which was disposed of with other O.As. in a common order dtd.20.02.1997, where the Tribunal directed to constitute a high level committee to enquire into the matter and to take



appropriate steps on the basis of the report of the committee. The report of the committee in respect of the applicant is as follows:

"He was appointed as Typist on adhoc basis for a period of 89 days vide order No.NDWCE/S/PS/20 dt.29.12.88. Subsequently, an appointment making permanent has been issued by Sri B.K. Mania vide letter No.336 (6)-Secy-89 dt.01.05.89. The only document in support of his service in college in letter No.6118 dt.15.11.90 signed by V.V. Vidyarthi. No other evidence is produced in support of his service in the college."

The applicant challenged the report as it is not based on material on record. It may be noted that prior to the taking over of the college by the Government, as there was dispute between two rival groups of the governing body, the matter was carried to the Hon'ble High Court and the Hon'ble Court vide their order dtd.30.10.1990, held that one Mr. B.K. Mania who was the



Secretary of the College and Mr. V.V. Vidyarthi, who was the principal of the College will continue as the Secretary and Principal of the College until further orders. The case of the applicant is that orders have been issued by the Principal Mr. V.V. Vidyarthi before and after the cut off date engaging him in different work of the college which clearly shows that the applicant was in the service of the college as on 01.04.1990. Continuance of the applicant in the employment of the college is evident from the letter of engagement dtd.30.12.1988 on 89 days basis and order dtd. 01.05.1989 on permanent basis and letter No.6118 dt.15.11.90 of the college signed by V.V. Vidyarthi. The report of the committee has been strongly refuted that there was no document to show his presence during the period from 01.04.1989 to 01.04.1990, which is completely wrong/incorrect. On the face of those documents, finding of the committee that the applicant was not in service is not acceptable. Learned counsel submitted that in OA No.3283/1998 acquittance roll for Nov.1989, Dec.1989 from



January 1990 to June 1990 have been filed from which it appears that the applicant was in the employment of the college as on 01.04.1990. The Tribunal in the said case clearly observed that had the acquittance roll was not genuine, respondents could have produced the genuine documents to dispel the claim of the applicant. As in the cases referred to above and under similar circumstances, the Tribunal has already observed that Pabani Behera, Ajodhya Narayan Mohanty and Bimbadhar Senapati were in the employment of the college as on 01.04.1990, there is no reason to discard those documents and take a different view in respect of the applicant who is similarly placed. More so, no material has been produced denying the claim of the applicant that he was not in the employment of the college as on 01.04.1990. The report of the committee on the basis of which the claim of the applicant was rejected is not supported by any material or document and hence rejection of the claim of the applicant is without any basis and liable to be quashed.

Thus in view of the above discussion,



we do not find any material to deny the claim of the applicant or to take a view other than the view already taken in the case of similarly situated persons and therefore, we hold that the applicant was an employee of Nalini Devi Women's College of Education Bhubaneswar as on 01.04.1990 and hence he should be treated as government employee. Accordingly, the respondents are directed to treat the applicant to be in the employment of the college as on 01.04.1990 and a government employee and extend all service and financial benefits, as due and admissible. However, he will not be entitled to back wages for the period he was out of employment, but shall only be entitled to such benefit notionally. The order be complied with expeditiously as possible, but within a period of three months from the date of receipt of a copy of the order."

After going through the averments taken in the writ petition and the impugned order and on hearing the learned counsel for the respective parties, we find that the learned Tribunal has rightly appreciated the pleadings and documents and came to hold that on the basis of relevant documents, the findings of the



Committee that the opposite party no.1 was not in service is not acceptable and since similarly situated persons have got the employment in the college as on 01.04.1990 and there was no reason to discard the documents of the opposite party no.1 and to take a different view and as such denying the claim of the opposite party no.1 on the ground that he was not in employment of the College as on 01.04.1990 is not sustainable in the eye of law. We do not find any illegality or perversity in the impugned order passed by the learned Tribunal. Therefore, the writ petition being devoid of merits, stands dismissed.

Urgent certified copy of this order be granted on proper application.

(S.K. Sahoo)
Judge

(S.S. Mishra)
Judge

RKM

Signature Not Verified

Digitally Signed
Signed by: RABINDRA KUMAR MISHRA
Designation: Personal Assistant
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 28-Jul-2025 19:39:24

